

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 858 of 2004
Original Application No. 1004 of 2004

Indore, this the 19th day of October 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

K.K. Bajpai, aged about 60 years,
S/o. late J.P. Bajpai, Laboratory Technician,
Post and Telegraph Dispensary No. 1,
Jabalpur, R/o. 1355, 'Asra Printers', Jai Nagar,
Yadav Colony, Jabalpur.

.... Applicant in
both the OAs

(By Advocate – Shri Rajneesh Gupta)

Versus

1. O.A. No. 858 of 2004 -
 1. Union of India, through Secretary,
Department of Posts, Govt. of India,
Dak Bhawan, New Delhi.
 2. Post Master General, Raipur Region,
Raipur.
 3. Director of Postal Services, Raipur
Region, Raipur.

.... Respondents

(By Advocate – Shri K.N. Pethia)

2. O.A. No. 1004 of 2004 -
 1. Union of India, through Secretary,
Department of Posts, Govt. of India,
Dak Bhawan, New Delhi.
 2. Chief Post Master General,
Raipur, Chhattisgarh Circle.
 3. Director of Postal Services,
Raipur Region, Raipur.
 4. Senior Superintendent of Post Offices,
Jabalpur, District : Jabalpur.

.... Respondents



(By Advocate – Shri A.P. Khare)

ORDER

By Madan Mohan, Judicial Member –

As the applicant in both the Original Applications is same, for the sake of convenience we are disposing of these Original Applications by a common order.

2. By filing these Original Applications the applicant has claimed the following main reliefs :

In OA No. 858 of 2004 –

“(i) to direct the respondents to pay full salary for the period w.e.f. 24.1.1991 to 23.6.1994 and thereafter for the second term of suspension w.e.f. 24.10.2002 till his retirement,

(ii) to direct the respondents to pay full back wages for the period 24.6.1994 till 20.1.2002 in pursuance to the judgment dated 14.12.2001 passed in OA No. 79/96 (Annexure A-1),

(iii) to direct the respondents to give benefit of Assured Career Progression Scheme (Annexure A-8) to the applicant and thereafter on this basis to calculate full back wages of the applicant and pay the arrears of the same.

(iv) to direct the respondents to give annual increments for the period w.e.f. 24.10.1991 till his superannuation to the applicant and calculate the arrears and to pay the applicant,

(v) to direct the respondents to calculate and pay the retrial dues to the applicant as if no penalty has ever been imposed on the applicant,

(vi) to direct the respondents to refund an amount of Rs. 35284.00 arbitrarily and illegally deducted from the salary of the applicant as penal rent,

(vii) to impose 18% interest on the total amount payable to the applicant as aforesaid in the interest of justice

OA No. 1004/2004 –



(i) to direct the respondents to give the benefit of pay scale of Rs. 5500-9000/- from the date the juniors of the applicant have been given the said benefit, i.e. 9.8.1999 alongwith all monetary benefit with a further direction to refix the pay the applicant paying him all arrears alongwith interest,

(ii) to direct the respondents to give benefit of Assured Career Progression Scheme (Annexure A-1) to the applicant and thereafter on this basis to calculate full back wages of the applicant and pay the arrears of the same,

(iii) to impose 18% interest on the total amount payable to the applicant as aforesaid in the interest of justice."

3. The brief facts of the case are that the applicant who was employed as a Laboratory Technician was posted under the direct control and supervision of Director of Postal Services, Raipur Region, Raipur. While working as such he was issued with a charge sheet and departmental enquiry was initiated against him. As a consequence of the same the order of compulsory retirement dated 23rd June, 1994 was imposed on him. Against the same the applicant preferred an appeal which was dismissed. Against the order of compulsory retirement the applicant filed an Original Application No. 79/1996. The Tribunal vide its order dated 14.12.2001 (Annexure A-2) had disposed of the said OA, whereby certain directions were given to the respondents. When the respondents have not complied with the said directions, the applicant has filed a CCP No. 59/2002. Similarly an OA No. 859/2002 was also filed by the applicant. Both the CCP and the OA No. 859/2002 was disposed of by the Tribunal by a common order dated 25.3.2003. The respondents moved a MA No. 233/2003 for extension of time to comply with the judgment passed by the Tribunal in OA No. 79/1996 on 14.12.2001. Six months time was granted to them to comply with the order of the Tribunal. Thereafter the respondents filed another MA No. 1368/2003. This MA was disposed of by the Tribunal vide order dated 13.10.2003 and the respondents were granted further four months time to comply with the order of the Tribunal and it was mentioned in the order that if the enquiry is not finalized

including passing of the final order, then the disciplinary proceedings shall abate and no further prayer for extension shall be entertained. The respondents could not able to finish the enquiry within the aforesaid time. Hence, the disciplinary proceedings were to be abated. The respondents thereafter moved an application before this Tribunal No. 492/2004 which was dismissed vide order dated 26.4.2004. The respondents filed Writ Petition before the Hon'ble High Court but it was also dismissed. Meanwhile the respondents passed the order of reinstatement of the applicant and he was reinstated on 16.1.2002. Since the disciplinary proceedings are stood abated against the applicant, hence, the applicant is entitled for the reliefs claimed by him in both the Original Applications.

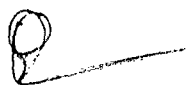
4. Heard the learned counsel for the parties and carefully perused the pleadings and records.

5. It is argued on behalf of the applicant that the respondents had not complied with the orders passed by the Tribunal in OA No. 79/1996. They had filed several MAs for extension of time and the Tribunal also granted adequate time for compliance but the respondents could not comply with the orders of the Tribunal and failed to conclude the departmental enquiry proceedings within due time. The respondents have also filed a WP before the Hon'ble High Court which was dismissed. The respondents further filed an SLP before the Hon'ble Supreme Court and it was dismissed vide order dated 15.7.2005. In the meantime the respondents reinstated the applicant on 16.1.2002 but they have not given him the benefits for which he is legally entitled. Hence, both the OAs are required to be allowed after the final rejection of the SLP by the Hon'ble Supreme Court which was filed by the respondents.

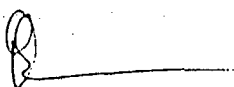
6. In reply the learned counsel for the respondents argued that a case was reported by the CMO to the SSPOs, Jabalpur RO, Raipur and also at the Police Station, Madan Mahal, Jabalpur about the misbehaviour and suspected incorrect test reports, of the applicant. Some of the complaints



carried out pathological test outside P&T dispensary No. 1 which confirmed their suspicion. Thereafter, disciplinary action was initially against the applicant on 24.10.1991 and finally was concluded on 14.7.1992. The report of the enquiry officer was sent to the applicant on 20.7.2002. The applicant was compulsorily retired from service with effect from 1.11.1992. He preferred an appeal on 24.9.1993 and the appellate authority set aside the punishment order passed and preferred the case to the disciplinary authority for conducting denovo proceedings from the stage of submission of the enquiry report. Accordingly denovo proceedings were conducted by the competent authority and the applicant was again ordered to be compulsorily retired from service on 23.6.1994. Against this he preferred an appeal which was rejected vide order dated 25.1.1996. He also submitted a petition against the punishment of compulsory retirement to the Member (P), Postal Services Board, New Delhi which was also rejected vide order dated 3.2.1997. Thereafter, the applicant filed OA No. 79/1996 and the Tribunal vide order dated 14.2.2001 quashed the penalty orders with direction to the respondents to reinstate the applicant and giving liberty to the respondents to proceed against the applicant to conduct the enquiry from the stage immediately after issue of the charge sheet. The applicant was reinstated on 21.1.2002. But due to certain administrative reasons the enquiry could not be conducted within the specified time which was beyond the control of the respondents. The enquiry was completed on 13.1.2004. However, since the disciplinary authority was transferred and the post remained vacant the case could not be decided and the CAT was requested to grant further extension by filing MA but it was rejected. The WP was also filed before the Hon'ble High Court but it was also dismissed. Thereafter, an SLP was filed before the Hon'ble Supreme Court which was also dismissed. The action taken by the respondents does not call for any interference. Hence, these Original Applications are liable to be dismissed.



7. After hearing the learned counsel for both the parties and on careful perusal of the pleadings and records we find that the Tribunal vide its order dated 14.12.2001 passed in OA No. 79/1996 (Annexure A-1) had quashed the penalty orders dated 23.6.1994 and 25.1.1996 and the respondents were directed to reinstate the applicant within a month and the respondents were given liberty to conduct the enquiry from the stage of immediately after the issue of the charge sheet and the enquiry proceedings should be completed within six months. The applicant had filed CCP as the respondents did not comply with the said order. The respondents had filed MA No. 233/2003 seeking extension of time to comply with the order dated 14.12.2001 passed in OA No. 79/1996. They were granted six months time. Thereafter the respondents again moved a Misc. Application No. 1388/2003. The Tribunal again granted 4 months time to comply with the order of the Tribunal and also imposed a condition that if within the extended period of 4 months if the enquiry is not finalized including passing of the final order then the disciplinary proceedings shall abate and no further prayer for extension shall be entertained. The respondents could not comply with the order of the Tribunal. Thereafter, they again filed MA No. 492/2004 which was dismissed by the Tribunal vide order dated 26.4.2004. We have perused this order dated 26.4.2004 and it was specifically mentioned in that "four months time earlier granted by the Tribunal had already expired in the month of January 2004. The respondents have moved the present MA for extension of further time only on 8th April, 2004 and there is no ground that the delay in completing the enquiry including passing of final order is attributable to the applicant. Therefore, there is no ground to modify our earlier order dated 13.10.2003 passed in MA No. 1388/2003. In the result the MA is rejected". Against this the respondents filed WP which was dismissed by the Hon'ble High Court. The respondents thereafter, filed SLP before the Hon'ble Supreme Court which was also dismissed by the Hon'ble Supreme Court vide order dated 15.7.2005 on the ground of



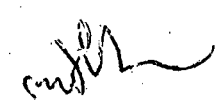
delay as well as on merits. We have perused the order of the Hon'ble Supreme Court.

8. Considering all the facts and circumstances of the case we are of the considered view that the departmental enquiry proceedings initiated against the applicant has been abated in terms of the orders passed by this Tribunal in MA No. 1368/2003 on 13.10.2003, which has been confirmed by the Hon'ble Supreme Court. The disciplinary enquiry proceedings against the applicant stand abated on 13.2.2004. Thus there is no disciplinary proceedings pending against the applicant as on that date i.e. 13.2.2004. The applicant is en-titled for the dues which has been withheld by the respondents because of the pendency of the disciplinary enquiry proceedings. Hence, the respondents are directed as under :

- (i) To regularise the period of suspension of the applicant in terms of FR-54,
- (ii) to consider the case of the applicant for grant of ACP benefits and other consequential benefits,
- (iii) to pay the retiral dues to the applicant,
- (iv) to grant the applicant interest on the amount of gratuity in terms of Rule 68 of CCS (Pension) Rules on the prevalent rate,
- (v) also to grant simple interest at the rate of 6% per annum on other retiral dues of the applicant after the expiry of the period of three months from his due date of retirement,
- (vi) to comply with the aforesaid orders of the Tribunal within a period of four months from the date of receipt of a copy of this order.

9. Accordingly, both the Original Applications are disposed of in the aforesaid terms. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman